

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.3100 Compensation (IITA Section 302)

TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART J: COMPENSATION

Section 100.3100 Compensation (IITA Section 302)

a) General definition

Compensation is defined in IITA Section 1502(a)(3) to mean wages, salaries, commissions and any other form of remuneration paid to employees for personal services. The term is thus comparable to the term "wages" as used in 26 U.S.C. Section 3401(a), except that the exceptions set forth in the Code section are inapplicable for purposes of Article 3 of the Act. (See Section 100.7000 for definition of compensation subject to withholding.)

b) Employee

Compensation is defined as remuneration for personal services performed by an "employee". If the employer-employee relationship does not exist, remuneration for services performed does not constitute "compensation." The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term has the same meaning under the Illinois Income Tax Act as under 26 U.S.C. Section 3401(c) and 26 CFR 31.3401(c)-1.

c) Types of compensation

The name by which remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, and pensions and retired pay are compensation within the meaning of the statute if paid for services performed by an employee for his employer.

d) Past services

Remuneration for personal services constitutes compensation even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them, so long as such relationship existed when the services were rendered.

e) Duty days

Beginning with taxable years ending on or after December 31, 1992, for persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on persons who are members of professional sports teams that are residents of this State . . . in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (IITA Section 304(a)(2)(B)) Such income is compensation income and is allocated to Illinois under Section 100.3400 on the basis of duty days. Duty days are days during any part of which the person is under a duty to perform personal services under the terms of his or her personal services contract.

- 1) For players, total duty days shall include all days from the beginning of the official pre-season training period through the last game in which the player competes. If a player is involved in post-season games, duty days include all days through the last post-season game in which the player participates. Post-season games are any play-off games in which the player participates. Also included in post-season games are any all star games in which the player is chosen to participate.
- 2) Duty days include off days, practice days and travel days. In the case of a travel day, only days in which the player, manager, coach and other full time traveling personnel spends at least 8 hours in this State will be considered a duty day. Duty days for any person who joins a team or leaves a team during the season shall begin or end on the day such person becomes a member of a team or ceases to be a member of a team.
- 3) For trainers and other full time traveling employees, total duty days will include all days in the calendar year.
- 4) Duty days in Illinois shall equal one (1) day for each duty day during any part of which the employee is physically present in Illinois.

f) Examples

The standards set forth in this Section may be illustrated, in part, by the following examples:

- 1) A is a salesman for B corporation. B conducts a selling contest among its salesmen, first prize being a two-week vacation in Las Vegas. A is the winner of the contest and is awarded the vacation. The fair market value of the trip constitutes compensation.
- 2) C is employed by D corporation during the month of January 1970 and is entitled to receive remuneration of \$100 for services performed for D during such month. C leaves the employ of D at the close of business on January 31, 1970. On February 15, 1970 (when C is no longer an employee of D), D pays C the remuneration of \$100 for services performed in January. The \$100 is compensation.

- 3) The facts are the same as in subsection (f)(2) above except that C is discharged by D at the end of January. In addition to the \$100 earned by C for services performed in January, D pays C \$50 severance pay. The \$50 constitutes compensation.

(Source: Amended at 17 Ill. Reg. 8869, effective June 2, 1993)